

109TH CONGRESS
2D SESSION

S. 4036

To establish procedures for the expedited consideration by Congress of certain proposals by the President to rescind amounts of budget authority and reinstate pay-as-you-go.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2006

Mr. CARPER (for himself, Ms. SNOWE, Mr. BAYH, Ms. COLLINS, Mr. SALAZAR, and Mr. CHAFEE) introduced the following bill; which was read twice and referred to the Committee on the Budget

A BILL

To establish procedures for the expedited consideration by Congress of certain proposals by the President to rescind amounts of budget authority and reinstate pay-as-you-go.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Budget Enforcement
5 Legislative Tools Act of 2006”.

1 **SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PRO-**
2 **POSED RESCISSIONS.**

3 (a) IN GENERAL.—Part B of title X of the Congres-
4 sional Budget and Impoundment Control Act of 1974 (2
5 U.S.C. 681 et seq.) is amended by redesignating sections
6 1013 through 1017 as sections 1014 through 1018, re-
7 spectively, and inserting after section 1012 the following
8 new section:

9 “EXPEDITED CONSIDERATION OF CERTAIN PROPOSED
10 RESCISSIONS

11 “SEC. 1013. (a) PROPOSED RESCISSION OF DISCRE-
12 TIONARY BUDGET AUTHORITY.—In addition to the meth-
13 od of rescinding discretionary budget authority specified
14 in section 1012, the President may propose, at the time
15 and in the manner provided in subsection (b), the rescis-
16 sion of any discretionary budget authority provided in an
17 appropriations Act. Funds made available for obligation
18 under this procedure may not be proposed for rescission
19 again under this section or section 1012.

20 “(b) TRANSMITTAL OF SPECIAL MESSAGE.—

21 “(1) Not later than 3 days after the date of en-
22 actment of an appropriations Act subject to rescis-
23 sion under this section, the President may transmit
24 to Congress a special message proposing to rescind
25 amounts of discretionary budget authority provided
26 in that Act and include with that special message a

1 draft bill or joint resolution that, if enacted, would
2 only rescind that discretionary budget authority.

3 “(2) In the case of an Act that includes ac-
4 counts within the jurisdiction of more than one sub-
5 committee of the Committee on Appropriations, the
6 President in proposing to rescind discretionary
7 budget authority under this section shall send a sep-
8 arate special message and accompanying draft bill or
9 joint resolution for accounts within the jurisdiction
10 of each such subcommittee.

11 “(3) Each special message shall specify, with
12 respect to the discretionary budget authority pro-
13 posed to be rescinded, the matters referred to in
14 paragraphs (1) through (5) of section 1012(a).

15 “(c) LIMITATION ON AMOUNTS SUBJECT TO RESCIS-
16 SION.—

17 “(1) The amount of discretionary budget au-
18 thority which the President may propose to rescind
19 in a special message under this section for a par-
20 ticular program, project, or activity for a fiscal year
21 may not exceed 25 percent of the amount appro-
22 priated for that program, project, or activity in that
23 Act.

1 “(2) The limitation contained in paragraph (1)
2 shall only apply to a program, project, or activity
3 that is authorized by law.

4 “(d) PROCEDURES FOR EXPEDITED CONSIDER-
5 ATION.—

6 “(1)(A) Before the close of the second day of
7 continuous session of the applicable House after the
8 date of receipt of a special message transmitted to
9 Congress under subsection (b), the majority leader
10 or minority leader of the House of Congress in
11 which the Act involved originated shall introduce (by
12 request) the draft bill or joint resolution accom-
13 panying that special message. If the bill or joint res-
14 olution is not introduced as provided in the pre-
15 ceding sentence, then, on the third day of continuous
16 session of that House after the date of receipt of
17 that special message, any Member of that House
18 may introduce the bill or joint resolution.

19 “(B) The bill or joint resolution shall be re-
20 ferred to the Committee on Appropriations of that
21 House. The committee shall report the bill or joint
22 resolution without substantive revision and with or
23 without recommendation. The bill or joint resolution
24 shall be reported not later than the seventh day of
25 continuous session of that House after the date of

1 receipt of that special message. If the Committee on
2 Appropriations fails to report the bill or joint resolu-
3 tion within that period, that committee shall be
4 automatically discharged from consideration of the
5 bill or joint resolution, and the bill or joint resolu-
6 tion shall be placed on the appropriate calendar.

7 “(C) A vote on final passage of the bill or joint
8 resolution shall be taken in that House on or before
9 the close of the 10th calendar day of continuous ses-
10 sion of that House after the date of the introduction
11 of the bill or joint resolution in that House. If the
12 bill or joint resolution is agreed to, the Clerk of the
13 House of Representatives (in the case of a bill or
14 joint resolution agreed to in the House of Represent-
15 atives) or the Secretary of the Senate (in the case
16 of a bill or joint resolution agreed to in the Senate)
17 shall cause the bill or joint resolution to be en-
18 grossed, certified, and transmitted to the other
19 House of Congress on the same calendar day on
20 which the bill or joint resolution is agreed to.

21 “(2)(A) A bill or joint resolution transmitted to
22 the House of Representatives or the Senate pursu-
23 ant to paragraph (1)(C) shall be referred to the
24 Committee on Appropriations of that House. The
25 committee shall report the bill or joint resolution

1 without substantive revision and with or without rec-
2 ommendation. The bill or joint resolution shall be re-
3 ported not later than the seventh day of continuous
4 session of that House after it receives the bill or
5 joint resolution. A committee failing to report the
6 bill or joint resolution within such period shall be
7 automatically discharged from consideration of the
8 bill or joint resolution, and the bill or joint resolu-
9 tion shall be placed upon the appropriate calendar.

10 “(B) A vote on final passage of a bill or joint
11 resolution transmitted to that House shall be taken
12 on or before the close of the 10th calendar day of
13 continuous session of that House after the date on
14 which the bill or joint resolution is transmitted. If
15 the bill or joint resolution is agreed to in that
16 House, the Clerk of the House of Representatives
17 (in the case of a bill or joint resolution agreed to in
18 the House of Representatives) or the Secretary of
19 the Senate (in the case of a bill or joint resolution
20 agreed to in the Senate) shall cause the engrossed
21 bill or joint resolution to be returned to the House
22 in which the bill or joint resolution originated.

23 “(3)(A) A motion in the House of Representa-
24 tives to proceed to the consideration of a bill or joint
25 resolution under this section shall be highly privi-

1 leged and not debatable. An amendment to the mo-
2 tion shall not be in order, nor shall it be in order
3 to move to reconsider the vote by which the motion
4 is agreed to or disagreed to.

5 “(B) Debate in the House of Representatives
6 on a bill or joint resolution under this section shall
7 not exceed 4 hours, which shall be divided equally
8 between those favoring and those opposing the bill
9 or joint resolution. A motion further to limit debate
10 shall not be debatable. It shall not be in order to
11 move to recommit a bill or joint resolution under
12 this section or to move to reconsider the vote by
13 which the bill or joint resolution is agreed to or dis-
14 agreed to.

15 “(C) Appeals from decisions of the Chair relat-
16 ing to the application of the Rules of the House of
17 Representatives to the procedure relating to a bill or
18 joint resolution under this section shall be decided
19 without debate.

20 “(D) Except to the extent specifically provided
21 in the preceding provisions of this subsection, con-
22 sideration of a bill or joint resolution under this sec-
23 tion shall be governed by the Rules of the House of
24 Representatives.

1 “(4)(A) A motion in the Senate to proceed to
2 the consideration of a bill or joint resolution under
3 this section shall be privileged and not debatable. An
4 amendment to the motion shall not be in order, nor
5 shall it be in order to move to reconsider the vote
6 by which the motion is agreed to or disagreed to.

7 “(B) Debate in the Senate on a bill or joint res-
8 olution under this section, and all debatable motions
9 and appeals in connection therewith, shall not exceed
10 10 hours. The time shall be equally divided between,
11 and controlled by, the majority leader and the mi-
12 nority leader or their designees.

13 “(C) Debate in the Senate on any debatable
14 motion or appeal in connection with a bill or joint
15 resolution under this section shall be limited to not
16 more than 1 hour, to be equally divided between,
17 and controlled by, the mover and the manager of the
18 bill or joint resolution, except that in the event the
19 manager of the bill or joint resolution is in favor of
20 any such motion or appeal, the time in opposition
21 thereto, shall be controlled by the minority leader or
22 his designee. Such leaders, or either of them, may,
23 from time under their control on the passage of a
24 bill or joint resolution, allot additional time to any

1 Senator during the consideration of any debatable
2 motion or appeal.

3 “(D) A motion in the Senate to further limit
4 debate on a bill or joint resolution under this section
5 is not debatable. A motion to recommit a bill or joint
6 resolution under this section is not in order.

7 “(e) AMENDMENTS PROHIBITED.—No amendment to
8 a bill or joint resolution considered under this section shall
9 be in order in either the House of Representatives or the
10 Senate. No motion to suspend the application of this sub-
11 section shall be in order in either House, nor shall it be
12 in order in either House to suspend the application of this
13 subsection by unanimous consent.

14 “(f) REQUIREMENT TO MAKE AVAILABLE FOR OBLI-
15 GATION.—Any amount of discretionary budget authority
16 proposed to be rescinded in a special message transmitted
17 to Congress under subsection (b) shall be made available
18 for obligation on the day after the date on which either
19 House defeats the bill or joint resolution transmitted with
20 that special message.

21 “(g) DEFINITIONS.—For purposes of this section—

22 “(1) continuity of a session of either House of
23 Congress shall be considered as broken only by an
24 adjournment of that House sine die, and the days on
25 which that House is not in session because of an ad-

1 jourment of more than 3 days to a date certain
2 shall be excluded in the computation of any period;
3 and

4 “(2) the term ‘discretionary budget authority’
5 means the dollar amount of discretionary budget au-
6 thority and obligation limitations—

7 “(A) specified in an appropriation law, or
8 the dollar amount of budget authority required
9 to be allocated by a specific proviso in an ap-
10 propriation law for which a specific dollar figure
11 was not included;

12 “(B) represented separately in any table,
13 chart, or explanatory text included in the state-
14 ment of managers or the governing committee
15 report accompanying such law;

16 “(C) required to be allocated for a specific
17 program, project, or activity in a law (other
18 than an appropriation law) that mandates obli-
19 gations from or within accounts, programs,
20 projects, or activities for which budget authority
21 or an obligation limitation is provided in an ap-
22 propriation law;

23 “(D) represented by the product of the es-
24 timated procurement cost and the total quantity
25 of items specified in an appropriation law or in-

cluded in the statement of managers or the governing committee report accompanying such law; or

“(E) represented by the product of the estimated procurement cost and the total quantity of items required to be provided in a law (other than an appropriation law) that mandates obligations from accounts, programs, projects, or activities for which dollar amount of discretionary budget authority or an obligation limitation is provided in an appropriation law.”.

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of such Act (2 U.S.C. 621 note) is amended—

(1) by striking “and 1017” in subsection (a) and inserting “1013, and 1018”; and

(2) by striking “section 1017” in subsection (d) and inserting “sections 1013 and 1018”; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of such Act (2 U.S.C. 682(5)) is amended—

(A) in paragraph (4), by striking “1013” and inserting “1014”; and

(B) in paragraph (5)—

(i) by striking “1016” and inserting “1017”; and

1 (ii) by striking “1017(b)(1)” and in-
 2 serting “1018(b)(1)”.

3 (2) Section 1015 of such Act (2 U.S.C. 685)
 4 (as redesignated by section 2(a)) is amended—

5 (A) by striking “1012 or 1013” each place
 6 it appears and inserting “1012, 1013, or
 7 1014”;

8 (B) in subsection (b)(1), by striking
 9 “1012” and inserting “1012 or 1013”;

10 (C) in subsection (b)(2), by striking
 11 “1013” and inserting “1014”; and

12 (D) in subsection (e)(2)—

13 (i) by striking “and” at the end of
 14 subparagraph (A);

15 (ii) by redesignating subparagraph
 16 (B) as subparagraph (C);

17 (iii) by striking “1013” in subpara-
 18 graph (C) (as so redesignated) and insert-
 19 ing “1014”; and

20 (iv) by inserting after subparagraph
 21 (A) the following new subparagraph:

22 “(B) he has transmitted a special message
 23 under section 1013 with respect to a proposed
 24 rescission; and”.

1 (3) Section 1016 of such Act (2 U.S.C. 686)
 2 (as redesignated by section 2(a)) is amended by
 3 striking “1012 or 1013” each place it appears and
 4 inserting “1012, 1013, or 1014”.

5 (d) CLERICAL AMENDMENTS.—The table of sections
 6 for subpart B of title X of such Act is amended—

7 (1) by redesignating the items relating to sec-
 8 tions 1013 through 1017 as items relating to sec-
 9 tions 1014 through 1018; and

10 (2) by inserting after the item relating to sec-
 11 tion 1012 the following new item:

“Sec. 1013. Expedited consideration of certain proposed rescissions”.

12 (e) APPLICATION.—Section 1013 of the Congres-
 13 sional Budget and Impoundment Control Act of 1974 (as
 14 added by subsection (c)) shall apply to amounts of discre-
 15 tionary budget authority provided by appropriation Acts
 16 (as defined in subsection (g)(2) of such section) that are
 17 enacted after the date of the enactment of this Act.

18 **SEC. 3. PAY-AS-YOU-GO.**

19 (a) POINT OF ORDER.—

20 (1) IN GENERAL.—It shall not be in order in
 21 the Senate to consider any direct spending or rev-
 22 enue legislation that would increase the on-budget
 23 deficit or cause an on-budget deficit for any 1 of the
 24 3 applicable time periods as measured in paragraphs
 25 (5) and (6).

1 (2) APPLICABLE TIME PERIODS.—For purposes
2 of this subsection, the term “applicable time period”
3 means any 1 of the 3 following periods:

4 (A) The first year covered by the most re-
5 cently adopted concurrent resolution on the
6 budget.

7 (B) The period of the first 5 fiscal years
8 covered by the most recently adopted concu-
9 rent resolution on the budget.

10 (C) The period of the 5 fiscal years fol-
11 lowing the first 5 fiscal years covered in the
12 most recently adopted concurrent resolution on
13 the budget.

14 (3) DIRECT-SPENDING LEGISLATION.—For pur-
15 poses of this subsection and except as provided in
16 paragraph (4), the term “direct-spending legisla-
17 tion” means any bill, joint resolution, amendment,
18 motion, or conference report that affects direct
19 spending as that term is defined by, and interpreted
20 for purposes of, the Balanced Budget and Emer-
21 gency Deficit Control Act of 1985.

22 (4) EXCLUSION.—For purposes of this sub-
23 section, the terms “direct-spending legislation” and
24 “revenue legislation” do not include—

1 (A) any concurrent resolution on the budg-
2 et; or

3 (B) any provision of legislation that affects
4 the full funding of, and continuation of, the de-
5 posit insurance guarantee commitment in effect
6 on the date of enactment of the Budget En-
7 forcement Act of 1990.

8 (5) BASELINE.—Estimates prepared pursuant
9 to this section shall—

10 (A) use the baseline surplus or deficit used
11 for the most recently adopted concurrent resolu-
12 tion on the budget; and

13 (B) be calculated under the requirements
14 of subsections (b) through (d) of section 257 of
15 the Balanced Budget and Emergency Deficit
16 Control Act of 1985 for fiscal years beyond
17 those covered by that concurrent resolution on
18 the budget.

19 (6) PRIOR SURPLUS.—If direct spending or rev-
20 enue legislation increases the on-budget deficit or
21 causes an on-budget deficit when taken individually,
22 it must also increase the on-budget deficit or cause
23 an on-budget deficit when taken together with all di-
24 rect spending and revenue legislation enacted since
25 the beginning of the calendar year not accounted for

1 in the baseline under paragraph (5)(A), except that
2 direct spending or revenue effects resulting in net
3 deficit reduction enacted pursuant to reconciliation
4 instructions since the beginning of that same cal-
5 endar year shall not be available.

6 (b) WAIVER.—This section may be waived or sus-
7 pended in the Senate only by the affirmative vote of $\frac{3}{5}$
8 of the Members, duly chosen and sworn.

9 (c) APPEALS.—Appeals in the Senate from the deci-
10 sions of the Chair relating to any provision of this section
11 shall be limited to 1 hour, to be equally divided between,
12 and controlled by, the appellant and the manager of the
13 bill or joint resolution, as the case may be. An affirmative
14 vote of $\frac{3}{5}$ of the Members of the Senate, duly chosen and
15 sworn, shall be required to sustain an appeal of the ruling
16 of the Chair on a point of order raised under this section.

17 (d) DETERMINATION OF BUDGET LEVELS.—For
18 purposes of this section, the levels of budget authority,
19 outlays, and revenues for a fiscal year shall be determined
20 on the basis of estimates made by the Committee on the
21 Budget of the Senate.

22 (e) SUNSET.—This section shall expire on September
23 30, 2011.

24 (f) BALANCED BUDGET ACT AMENDMENTS.—

1 (1) ENFORCEMENT.—Section 252 of the Bal-
 2 anced Budget and Emergency Deficit Control Act of
 3 1985 is amended—

4 (A) in subsection (a), by striking “enacted
 5 before October 1, 2002”; and

6 (B) in subsection (b), by striking “enacted
 7 before October 1, 2002,”.

8 (2) EXPIRATION.—Section 275(b) of the Bal-
 9 anced Budget and Emergency Deficit Control Act of
 10 1985 is amended to read as follows:

11 “(b) PAY-GO.—Section 252 of this Act and any pro-
 12 cedure with respect to such section in this Act shall be
 13 effective beginning on the date of enactment of this sub-
 14 section and shall expire September 30, 2011.”.

15 **SEC. 4. TERMINATION.**

16 The authority provided by section 1013 of the Con-
 17 gressional Budget and Impoundment Control Act of 1974
 18 (as added by section 2) shall terminate effective on the
 19 date in 2010 on which the Congress adjourns sine die.

○